

DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED CHANGES IN THE REGULATIONS

Title 3, California Code of Regulations

Section 3423(b), Oriental Fruit Fly Interior Quarantine

INITIAL STATEMENT OF REASONS/

POLICY STATEMENT OVERVIEW

Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address

This regulation is intended to address the obligations of the Department of Food and Agriculture to protect the agricultural industry of California and prevent the introduction and spread of injurious plant pests.

Specific Purpose and Factual Basis

The specific purpose of Section 3423 is to provide for the State to regulate the movement of hosts and possible carriers of Oriental fruit fly within and from the area under quarantine to prevent artificial spread of the fly to noninfested areas to protect California's agricultural industry.

The factual basis for the determination by the Department that amendment of this regulation is necessary is as follows:

Oriental fruit fly is a destructive insect pest of innumerable commercial agricultural crops. Fruits (including nuts, dates, and berries), many kinds of vegetables, and the fruiting bodies of many wild and ornamental plants are known to be hosts or possible hosts of the Oriental fruit fly. Larval feeding reduces the interior of fruit to a rotten mass. Egg punctures admit decay organisms which cause tissue breakdown. Damaged fruit is generally unfit for human consumption. The fly can be artificially spread by movement of hosts which are infested with the fly.

Section 3423(b) was amended on October 4, 2001 to establish a quarantine area of approximately 67 square miles surrounding the Oriental fruit fly infestation in the San Diego area of San Diego County. Since

that date, treatments against the Oriental fruit fly were conducted for two lifecycles. Intensive trapping was conducted for an additional lifecycle without any additional finds of the fly. Therefore, Oriental fruit fly was declared eradicated from the San Diego area on February 5, 2002.

This amendment of Section 3423(b) removed the San Diego area of San Diego County from the area under quarantine for Oriental fruit fly. The fly was eradicated from this area on February 5, 2002; therefore, it was no longer necessary to regulate the movement of hosts and possible carriers of the fly from this area. It was necessary to amend this regulation on an emergency basis to remove the quarantine on the San Diego area and remove restrictions on the movement of hosts and possible carriers that are unnecessary. If these unnecessary restrictions had been continued, it would have created an unnecessary burden for the general public and businesses in that area. Host crops are being or will be harvested in this area soon. Commercially produced host crops, if the restrictions were continued, would have to be treated or would not be allowed movement from the areas. Also if the restrictions were continued, those members of the public who have grown host fruits and vegetables would be required to process the commodities before the fruits and vegetables can be moved or given away or they would have to destroy the host fruits and vegetables. Because this fly had not been eradicated from the Ontario area, that area remained in the area under quarantine for Oriental fruit fly.

Estimated Cost or Savings to Public Agencies or Affected Private Individuals or Entities

The Department of Food and Agriculture has determined that Section 3423 does not impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because this amendment removed a portion of San Diego County which was in the area under quarantine; therefore, enforcement is no longer necessary. There are no mandated costs associated with the removal of the San Diego area from the regulation.

The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the

Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from this action.

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Department has determined that this action will not have a significant adverse economic impact on housing costs or California businesses, including the ability of California businesses to compete with businesses in other states. The Department's determination that the action will not have a significant adverse economic impact on businesses was based on the following:

This action removed restrictions on the movement of hosts and carriers of Oriental fruit fly in the San Diego area of San Diego County which should have a positive impact on businesses in that area.

ASSESSMENT

The Department has made an assessment that this amendment to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

Alternatives Considered

The Department of Food and Agriculture must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Information Relied Upon

The Department relied upon the following studies, reports, and documents in the amendment of Section 3423(b): Memorandum of February 5, 2002 to Don Henry from Gary Agosta.